

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

ROBERT MCINERNEY,)
)
Plaintiff,)
)
v.)
)
MICHAEL J. ASTRUE,)
Commissioner of the Social)
Security Administration,)
)
Defendant.)

Case No. CIV-10-153-SPS

**OPINION AND ORDER AWARDING
ATTORNEYS' FEES TO THE PLAINTIFF UNDER THE EAJA**

The Plaintiff was the prevailing party in this appeal of the Commissioner of the Social Security Administration's decision denying benefits under the Social Security Act. The Plaintiff seeks an award of attorneys' fees in the amount of \$3,760.00 under the Equal Access to Justice Act, 28 U.S.C. § 2412. The Commissioner indicates that he has no objection to an award of attorneys' fee in the amount of \$3,760.00, but does object to the request that the EAJA fee be paid directly to counsel instead of the Plaintiff.

Upon review of the record herein, the Court finds that said amount is reasonable and that the Commissioner should be ordered to pay it to the *Plaintiff* as the prevailing party herein. *See* 28 U.S.C. § 2412(d)(1)(A) ("Except as otherwise specifically provided by statute, a court shall award to a prevailing party . . . fees and other expenses . . . incurred by that party in any civil action [.]"). *See also Astrue v. Ratliff*, __ U.S. __, 130 S. Ct. 2521 (2010); *Manning v. Astrue*, 510 F.3d 1246, 1249-50 (10th Cir. 2007), cert.

denied, __ U.S. __, 129 S. Ct. 486, 172 L. Ed. 2d 355 (2008).

Accordingly, Plaintiff's Motion for an Award of Attorney Fees Under the Equal Access to Justice Act [Docket No. 22] is hereby GRANTED, and the Commissioner is hereby ordered to pay attorneys' fees in the amount of \$3,760.00 to the Plaintiff as the prevailing party herein.

IT IS SO ORDERED this 29th day of December, 2011.



Steven P. Shreder
United States Magistrate Judge
Eastern District of Oklahoma